

Applicant : Monica L. Workens
Serial No. : 10/827,554
Filed : April 19, 2004
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REMARKS

Responsive the June 7, 2007 Non-Compliance Response from the Trademark Office and in response to the Office Advisory Action dated March 23, 2007, a Request for Continued Examination is enclosed. Since the proposed amendments have not been entered, the complete filing to the Final Action, with the exception of this paragraph, is respectfully being re-entered for examination and review by the Examiner. The applicant has paid a filing fee for the RCE Fee of \$395.00. No late fee has been included as provided by the Advisory Action that the statutory period for reply expires in six (6) months from the mailing date of the final rejection, which is November 06, 2006.

Notes from the previous Office Action dated October 26, 2006 state that the examiner rejects claims 1-11, 13, 14, 16, 17 and 25-69 under USC § 112 and §101 for not teaching under the original claims or filings its specifications and whereby the claims need to reach a tangible result, respectively.

Under 35 USC Rule § 112, the original filing and patent number 6,811,078, the original teachings were the same except that the Continuation In Part is broadening the claims to include a Visa or Master Card type transaction without the need for a third party Merchant Card processing company. Workens original ATM or Point of Transaction Patent allowed for direct movements of money through a newly devised Automatic Teller Machine with a multi-card allowing for bill payments, ATM transactions and Universal Money Management accessing a multitude of accounts directly and in Real Time.

Furthermore, prior Arts, like Wynn, Pitroda, Ramachandran, Lim, Nel, and Kakuta all teach that there is a third party company or server used in processing the transactions. Although, Lim teaches the transactions are completed instantaneously in [0038] in its system. Lim's process of using a Withdrawal Server, 41, that facilitates the approval of the transaction teaches a different method and claim than Workens. Similarly, Kakuta uses a CAFIS Center for assistance

in the processing its transactions (Figure 2, 200), where in [0076] of the claims that, “according to the request from the CASIF Center 200 and informs the CASIF Center 200 of a balance amount.” Pitroda teaches the use of a card for information transfer but does not teach that it allows for financial transactions or direct transactions without the assistance of a third party processor. Wynn does not teach how its method relates to the direct settlement of a transaction without a third party processor. Similarly, Ramachandran and Nel are all silent regarding the method of the processing of transactions with their systems and do not disclose or teach in their claims, the settlement side of the transaction. Therefore, none of the prior Arts, listed above, can show or claim that their art is teachable as prior Art over Workens.

Additionally, none of the prior Arts noted above claim that non-users can access the card, card reader, card system, also known as a computer readable medium encoded with a computer program, and network. More comprehensively, none of the inventions noted in the above paragraph claim or materially disclose a system as being a card, card reader, network, and computer readable medium encoded with a computer program.

For those reasons noted in the previous three paragraphs, Workens invention, more specifically claims 1-11, 13, 14, 16, 17 and 25-69 should be patentable under 35 USC § 112.

Tangible results are required under 35 USC § 101 in order to be considered patentable. Claim 1-11, 13, 14, 16, 17 and 25-69 all provide a tangible result from information sent to the card. The result is “funding a transaction.” The information sent to the card, through the network, read by the reader and organized by the computer readable medium encoded with a computer program is used to fund a transaction. Claim 1, an Independent Claim notes in the embodiment of the claim that the information is used in “funding a transaction.” Funding a transaction is considered a tangible event, therefore patentable und 35 USC § 101. Dependent claims 2-11 rely on the Independent Claim 1 for its basis. Similarly, claims 13, 14, 16, and 17 rely on the Independent Claim 1 for its basis. With Claim 1 being patentable under 35 USC § 101, therefore so should claims 2-11, 13, 14, 16, 17. Similar logic is used for claims 25-69. These claims also state the tangible benefit being “funding a transaction.” Therefore, Claim 1-11, 13, 14, 16, 17 and 25-69 should be considered patentable byway of the tangible benefit, funding a transaction.

Claim 1-5 and 16-17, 52-55, and 58-69 rejections under 35 USC § 103 under Wynn and Lim prior Art:

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Although Wynn teaches a card having a memory in column 4, lines 55+, Wynn fails to teach that there is a network in its system, or that transactions occur in real time, directly, without the assistance of a third party processing company. Lim is similar logic and thinking in that Lim teaches that its invention instantaneously settles but still works with a “3rd party processing server or company” as shown in its illustration Figure 4, 43. Material disclosure as to the method of a transaction settlement must be illustrated and claimed in order to be considered patentable over another invention. Neither, Wynn or Lim teach this in their inventions and therefore is not patentable over Workens.

Regarding the PIN in Wynn and Lim; neither, Lim or Wynn teach the card’s ability to be used by a non-user. A retailer or non-user that credits an account for a returned item, for example is not disclosed. Although the PIN is noted and disclosed by a user, the PIN use by a non-user makes this invention unique and therefore patentable over Wynn and Lim. Additionally, neither Lim or Wynn teach that there is a PIN that allows each account to be updated simultaneously or in real time. This feature is also unique to Workens and is therefore patentable over Lim and Wynn.

Known Art can only be considered known if it is fully and materially disclosed. Wynn’s silence on funds being transferred in real time and use of non-user, does not, under 35 USC 102 and 35 USC 103, apply. Therefore are not patentable over Workens. Similarly, Lim’s method and failure to disclose a non-user in its prior art and method, is the same, not patentable over Workens.

Lim and Wynn show use of a 3rd Party. In the explanation above, this issue and the differences are explained in full.

The examiner has noted regarding claim 4 and the card reader as 202 in Wynn. Although the reader is noted and defined in Wynn to facilitate completion of a card transaction, the card reader in Wynn does not have the capability to work with non-users as noted in the previous paragraphs. Additionally, without disclosing or noting the ability to have a non-user with its card, the usage of the card reader, its ability, and its procedures would not necessarily be obvious to one skilled in the art. Especially since a non-user would need a PIN to allow access to the account(s) on the card by way of the multiple account card.

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Claim 5, and the processing the transaction in Lim, has not taught the “instantaneous settlement” without disclosing the actual settlement itself. As noted in the above paragraphs on page 15 at the bottom of the page, Lim shows usage of a 3rd party for settlement without the use of a computer readable medium encoded with a computer program, for facilitating the funding of a transaction between first and second accounts. Regarding claims 16-17 and 52, 53, 54, 55, and 58, the use of the card and its processing method by a non-user with the PIN and the lack of disclosure of a non-user in Wynn and Lim should allow Workens the patentability of the product under 35 USC § 102 and 35 USC § 103.

Additionally, without full disclosure, funds can't be assumed, as noted above, by the mention of a 3rd party processing, that funds can be transferred instantaneously. Assuming that one could transfer funds instantaneously, does not necessarily mean that they have the same process or can be transferred directly. Without full material disclosure of Wynn, Ramachandran, Lim, Nel, and Kakuta processes to cover the back end of the transaction, the full process can not be obvious to one skilled in the art because there would be too many possibilities on design and process to assume.

In order for the funds to physically be transferred instantaneously, Lim and Wynn system would require an ability to process the information within its system. Neither, Lim or Wynn describe or disclose that “ability to process” transaction information in their systems.

In regards to pages 8-16 of the Examiners Office Action Summary and from the Interview Summary from the January 3, 2007 phone interview, the applicant notes the following differences and mutually exclusive aspects of Workens invention that Ramachandran, Lim, Kakuta, or Wynn have nor disclose in the prior arts:

Specifically, the disclosed Art enclosed is mutually exclusive in these ways:

- 1.) Neither Lim, Wynn, Kakuta, or Ramachandran disclose use of card and system by “non-users.”
- 2.) None of the referenced in 1 above disclose a “system” as being a card, card reader, network, and a computer readable medium encoded with a computer program.
- 3.) There is no 3rd party Server or Service in the enclosed embodiment like in the prior Arts noted and disclosed above in 1 above.

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- 4.) The user, in the POT System initiates and approves the transfer by way of PIN (not an automatic transfer) after the transaction has been "approved" by the (crediting) Institution - with Workens' embodiment, the entering of the PIN allowing the movement of money to pay for "transaction," to the debiting institution. Neither Lim, Wynn, Kakuta, or Ramachandran make use of a PIN in this method. When PIN is used in the above mentioned prior Art, it has been disclosed as being the step to access the account or accounts, not to use for completing and authorizing the transaction by way of moving money. Therefore the method or use of the PIN makes it mutually exclusive.
- 5.) In the enclosed embodiment, the Card is the "server;" similar in 1, card acts as the transaction authorizer along with the User and Non-User, therefore making it mutually exclusive to the disclosures in Lim, Wynn, Kakuta, and Ramachandran, in that, the "transactions" all require use of an outside server and card reader. Although Kakuta is silent in this regards but can't be assumed either way.
- 6.) Neither Wynn, Ramachandran, Kakuta, or Lim disclose that the cards in the prior Art have the capability to use at least 1 account to pay for a single transaction or to manage accounts including bill pay, etc. Nor would it make sense that these cards could do this without a system to transact it with that encompasses these capabilities as noted below in 7.
- 7.) The prior known Arts of Wynn, Ramachandran, Kakuta, and Lim rely on outside technology (ie. Ability to use and adapt to current ATM's for its Art) to use their "product." The POT System computer readable medium encoded with a computer program is set up to do a number of different items that not even current ATM Technology is set up to accomplish today:
 - a. Automatically provide a Transaction # for each transaction. Currently a 3rd party provides this number for each side of the transaction. Nowhere in any of the noted prior Arts listed in 7 do they disclose or offer this ability.
 - b. The POT System Software allows the information, like routing number and account number to be recorded (read by reader), translated (software takes information), and accepts for transfer directly to the POT Cards memory (using a database to organize, language to communicate, and format to "universalize and organize" information on card memory with System Software).
 - c. Additionally, each Institution utilize the same system and information within the POT System system to "settle" or move or accept money from account to account. Today's systems also known as prior art, provide statements to individuals, institutions from 3rd party processing companies regarding transaction details per transaction.
 - d. This System software will also allow for aggregating transaction information by a number of variables for better inventory and sales information.

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35 USC § 101 under Inventions Patentable illustrate that; "Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title."

None of the above 7 items as compared to Kakuta, Wynn, Lim, or Ramachandran illustrate or disclose any of its inventions these capabilities. These capabilities are limited to the extent of the abilities noted and do not materially disclose the above capabilities of Workens' invention and improved processes; including processing a transaction without a 3rd party processor and with an "in-house" computer readable medium encoded with a computer program and, therefore are not patentable over Workens for the reason that as a whole would have been obvious at the time the invention was made.

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

As noted in the January 3, 2007 phone interview, none of the prior Arts disclose, in 7 different ways (including the key aspect of not using a 3rd party processor, to be obvious), the above mentioned, mutually exclusive aspects of Workens' invention. Therefore, Kakuta, Lim, Wynn, and Ramachandran should not be patentable over Workens' invention for not being prior obvious processes.

Regarding the Substance of the Interview from the January 3, 2007 phone interview. The 7 mutually distinct aspects of Workens art is noted above along with the following notes below illustrating the full response to the Office Action that was provided to Examiner Walsh.

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The phone interview did focus on the following, which has been corrected and addressed in the previous paragraphs:

Prior art of Lim's Instantaneous Settlement and its difference from Workens direct settlement, change of preamble to claims 1, 41, and 65 to reflect appropriate terms, correct typos/corrections/minor informalities to the claim language, including the further defining the term "non-user" as per claim 1 and new defendant claims 70-73.

Upon Examiner Walsh and Workens' discussion on the 3rd party settlement in Lim as discussed and shown in the prior art in FIG 4, 43, the Server 43 acts as the 3rd party settlement server, whereby Workens invention leaves out the requirement of a 3rd party processor, hence using a different process than Lim altogether. Similarly, the system of Lim and Workens is completely different coupled with the disclosure of the non-user. For the reasons of different processes, use of system by non-users, and system design, Workens should be patentable over Lim.

In conclusion, it is thought that the above remarks addressed and records the Office Action Summary by D. Walsh dated October 26, 2007 and the Interview Summary from January 3, 2007 per MPEP § 713.04, respectively. However, the absence of a reply to a specific rejection, issue or comment does not signify agreement with or concession of the rejection, issue or comment. In addition, because of the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as intent to concede any issue with regard to any claims, except as specifically stated in this paper, and the amendment of any claims does not necessarily signify concession of unpatentability of the claim prior to its amendment.

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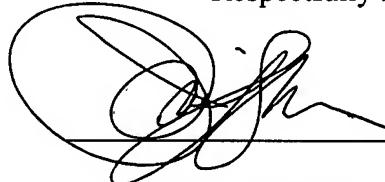
The prior Art and Patent Laws, Code Title 35, have been cited by the Examiner but has been scene as neither describing nor suggesting the Applicant's invention, whether taken separately or in combination, apply as being unpatentable by the References' material claims, disclosures, and processes.

In view of the foregoing amendments and remarks, Applicant respectfully submits that the application is in condition for allowance, and such action is respectfully requested.

Respectfully submitted,

Date:

July 2, 2007



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July 2, 2007

U.S. Patent and Trademark Office
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450
Via U.S. Express Mail

Re: Application Number 10/827,554

Dear Commissioner,

Please find attached hereto a corrected Amendment to the Non-Compliance Response dated June 7, 2007. Inadvertently, a filing was sent on June 25th, 2007, which had an incorrect serial number on the front page.

The enclosed has the corrected serial number on the application and correct deposit date along with corrected status of claims.

Should you have any questions, please feel free to contact my office at the above numbers or by email: monica_workens@att.net or by fax: 617-507-5818.

Best regards,

Monica L. Workens



UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/827,554	04/19/2004	Monica L. Workens	20082-002002	3427
7590	06/07/2007			EXAMINER

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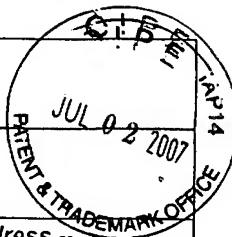


ART UNIT	PAPER NUMBER
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DATE MAILED: 06/07/2007

Please find below and/or attached an Office communication concerning this application or proceeding.

Application No.	10/827554	Applicant(s)
Examiner	Walsh, Daniel	Art Unit
		2876



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Amendment document filed on 4/23/07 is considered non-compliant because it has failed to meet the requirements of CFR 1.121 or 1.4. In order for the amendment document to be compliant, correction of the following item(s) is required.

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- 1. Amendments to the specification:
 - A. Amended paragraph(s) do not include markings.
 - B. New paragraph(s) should not be underlined.
 - C. Other _____.
- 2. Abstract:
 - A. Not presented on a separate sheet. 37 CFR 1.72.
 - B. Other _____.
- 3. Amendments to the drawings:
 - A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
 - B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
 - C. Other _____.
- 4. Amendments to the claims:
 - A. A complete listing of all of the claims is not present.
 - B. The listing of claims does not include the text of all pending claims (including withdrawn claims).
 - C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
 - D. The claims of this amendment paper have not been presented in ascending numerical order.
 - E. Other: The status identifier are wrong.
- 5. Other (e.g., the amendment is unsigned or not signed in accordance with 37 CFR 1.4):

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714.

TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:

1. Applicant is given **no new time period** if the non-compliant amendment is an after-final amendment, an amendment filed after allowance, or a drawing submission (only). If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted.
2. Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the correction, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a Quayle action. If any of above boxes 1. to 4. are checked, the correction required is only the **corrected section** of the non-compliant amendment in compliance with 37 CFR 1.121.

Extensions of time are available under 37 CFR 1.136(a) **only** if the non-compliant amendment is a non-final amendment or an amendment filed in response to a Quayle action.

Failure to timely respond to this notice will result in:

Abandonment of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a Quayle action; or

Non-entry of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.

Daniel Walsh
Signature
Legal Instruments Examiner (LIE), if applicable

571272-1622
Telephone No.

REVISED AMENDMENT PRACTICE: 37 CFR 1.121 CHANGED COMPLIANCE IS MANDATORY - Effective Date: July 30, 2003

Amendments filed on or after the effective date noted above must comply with revised 37 CFR 1.121. See Final Rule: Changes To Implement Electronic Maintenance of Official Patent Application Records (68 Fed. Reg. 36111 (June 30, 2003), posted on the Office's website at: <http://www.uspto.gov/web/patents/ifw/> with related information. The amendment practice set forth in revised 37 CFR 1.121, and described below, replaces the voluntary revised amendment format available to applicants since February 2003. NOTE: STRICT COMPLIANCE WITH THE REVISED 37 CFR 1.121 IS REQUIRED AS OF THE EFFECTIVE DATE (July 30, 2003). The Office will notify applicants of amendments that are not accepted because they do not comply with revised 37 CFR 1.121 via a Notice of Non-Compliant Amendment. See MPEP 714.03 (Rev. 1, Feb. 2003). The non-compliant section(s) will have to be corrected and the entire corrected section(s) resubmitted within a set period.

Bold underlined italic font has been used below to highlight the major differences between the revised 37 CFR 1.121 and the voluntary revised amendment format that applicants could use since February, 2003.

Note: The amendment practice for reissues and reexamination proceedings, except for drawings, has not changed.

REVISED AMENDMENT PRACTICE

I. Begin each section of an amendment document on a separate sheet:

Each section of an amendment document (e.g., Specification Amendments, Claim Amendments, Drawing Amendments, and Remarks) must begin on a separate sheet. Starting each separate section on a new page will facilitate the process of separately indexing and scanning each section of an amendment document for placement in an image file wrapper.

II. Two versions of amended part(s) no longer required:

37 CFR 1.121 has been revised to no longer require two versions (a clean version and a marked up version) of each replacement paragraph or section, or amended claim. Note, however, the requirements for a clean version and a marked up version for substitute specifications under 37 CFR 1.125 have been retained.

A) Amendments to the claims:

Each amendment document that includes a change to an existing claim, cancellation of a claim or submission of a new claim, must include a complete listing of all claims in the application. After each claim number in the listing, the status must be indicated in a parenthetical expression, and the text of each pending claim (with markings to show current changes) must be presented. The claims in the listing will replace all prior claims in the application.

- (1) The current status of all of the claims in the application, including any previously canceled, not entered or withdrawn claims, must be given in a parenthetical expression following the claim number using only one of the following seven status identifiers: (original), (currently amended), (canceled), (withdrawn), (new), (previously presented) and (not entered). The text of all pending claims, including withdrawn claims, must be submitted each time any claim is amended. Canceled and not entered claims must be indicated by only the claim number and status, without presenting the text of the claims.
- (2) The text of all claims being currently amended must be presented in the claim listing with markings to indicate the changes that have been made relative to the immediate prior version. The changes in any amended claim must be shown by underlining (for added matter) or strikethrough (for deleted matter) with 2 exceptions: (1) for deletion of five characters or fewer, double brackets may be used (e.g., [[deletion]]); and (2) if strikethrough cannot be easily perceived (e.g., deletion of the number "4" or certain punctuation marks), double brackets must be used (e.g., [[4]]). As an alternative to using double brackets, however, extra portions of text may be included before and after text being deleted, all in strikethrough, followed by including and underlining the extra text with the desired change (e.g., number 4 as number 14 as). An accompanying clean version is not required and should not be presented. Only claims of the status "currently amended," and "withdrawn" that are being amended, may include markings.
- (3) The text of pending claims not being currently amended, including withdrawn claims, must be presented in the claim listing in clean version, i.e., without any markings. Any claim text presented in clean version will constitute an assertion that it has not been changed relative to the immediate prior version except to omit markings that may have been present in the immediate prior version of the claims.

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~~Am being canceled must be listed in the claim listing with the status identifier "canceled"; the text of the claim must not be presented. Providing an instruction to cancel is optional.~~

~~Any claims added by amendment must be presented in the claim listing with the status identifier "(new)"; the text of the claim must not be underlined.~~

(6) All of the claims in the claim listing must be presented in ascending numerical order. Consecutive canceled, or not entered, claims may be aggregated into one statement (e.g., Claims 1 - 5 (canceled)).

Example of listing of claims (use of the word "claim" before the claim number is optional):

Claims 1-5 (canceled)

Claim 6 (previously presented): A bucket with a handle.

Claim 7 (withdrawn): A handle comprising an elongated wire.

Claim 8 (withdrawn): The handle of claim 7 further comprising a plastic grip.

Claim 9 (currently amended): A bucket with a green blue handle.

Claim 10 (original): The bucket of claim 9 wherein the handle is made of wood.

Claim 11 (canceled)

Claim 12 (not entered)

Claim 13 (new): A bucket with plastic sides and bottom.

B) Amendments to the specification:

Amendments to the specification, including the abstract, must be made by presenting a replacement paragraph or section or abstract marked up to show changes made relative to the immediate prior version. An accompanying clean version is not required and should not be presented. Newly added paragraphs or sections, including a new abstract (instead of a replacement abstract), must not be underlined. A replacement or new abstract must be submitted on a separate sheet, 37 CFR 1.72. If a substitute specification is being submitted to incorporate extensive amendments, both a clean version (which will be entered) and a marked up version must be submitted as per 37 CFR 1.125.

The changes in any replacement paragraph or section, or substitute specification must be shown by underlining (for added matter) or strikethrough (for deleted matter) with 2 exceptions: (1) for deletion of five characters or fewer, double brackets may be used (e.g., {{eroor}}); and (2) if strikethrough cannot be easily perceived (e.g., deletion of the number "4" or certain punctuation marks), double brackets must be used (e.g., {{4}}). As an alternative to using double brackets, however, extra portions of text may be included before and after text being deleted, all in strikethrough, followed by including and underlining the extra text with the desired change (e.g., number 4 as number 14 as).

C) Amendments to drawing figures:

Drawing changes must be made by presenting replacement figures which incorporate the desired changes and which comply with 37 CFR 1.84. An explanation of the changes made must be presented either in the drawing amendments, or remarks, section of the amendment, and may be accompanied by a marked-up copy of one or more of the figures being amended, with annotations. Any replacement drawing sheet must be identified in the top margin as "Replacement Sheet" and include all of the figures appearing on the immediate prior version of the sheet, even though only one figure may be amended. Any marked-up (annotated) copy showing changes must be labeled "Annotated Marked-up Drawings" and accompany the replacement sheet in the amendment (e.g., as an appendix). The figure or figure number of the amended drawing(s) must not be labeled as "amended." If the changes to the drawing figure(s) are not accepted by the examiner, applicant will be notified of any required corrective action in the next Office action. No further drawing submission will be required, unless applicant is notified.

Questions regarding the submission of amendments pursuant to the revised practice set forth in this Flyer should be directed to: Elizabeth Dougherty or Gena Jones, Legal Advisors, or Joe Narcavage, Senior Special Projects Examiner, Office of Patent Legal Administration, by e-mail to patentpractice@uspto.gov or by phone at (703) 305-1616.